REMARKS

Applicant has now had an opportunity to carefully consider the Examiner's comments set forth in the outstanding Office Action. All of the Examiner's objections and rejections are traversed. Reexamination and reconsideration are respectfully requested.

The Office Action

Claims 6, 12, 15 and 17 have been allowed.

Claims 1-5, 7-11, 13, 14, 16 and 18 stand rejected under 35 U.S.C. §102(b/e) as being anticipated by Skarbo, et al. or Hinckley, et al.

The Office Action also appears to reject claims 1-18 under 35 U.S.C. §112, second paragraph. This rejection is contrary to the express allowance of claims 6, 12, 15 and 17. However, it is assumed that the inclusion of claims 6, 12, 15 and 17 in this rejection was merely and oversight. Notably, claims 6, 12, 15 and 17 had been allowed in a previous Office Action without mention of any alleged indefiniteness.

Comments/Arguments

The rejection of claims 1-5, 7-11, 13, 14, 16 and 18 is hereby traversed.

I.   *The rejection based on Skarbo is Erroneous*

Notably, the rejection based upon Skarbo is not new. In fact, the same rejection was the subject matter of an appeal and a "Pre-Appeal Brief Request for Review." Significantly, the "Panel Decision from the Pre-Appeal Brief Review" explicitly indicates that the rejection was being withdrawn and a new Office Action was being issued. Clearly, in the view of the panel, the claims distinguish patentably over Skarbo. Therefore, Applicant is uncertain why this rejection continues to be maintained when the review panel found it to be unsustainable. Furthermore, Applicant is uncertain of the value of a review panel, if their decisions are not going to carry any weight. In any event, for completeness of the present response, the arguments set forth in the Pre-Appeal Brief Request for Review are again repeated here.

A.   General Overview

Skarbo is directed to a method of activating and deactivating a screen saver in a video conferencing system **18**. Skarbo employs a presence detection subsystem **20** to determine if a user is present at the site of the video conferencing system **18**. The presence detection subsystem **20** employs, e.g., motion detectors, audio detectors, room temperature detectors, infrared detectors, or the like to determine if a user is present at the site of the video conferencing system **18**. See column 3, lines 14-33. When the presence detection subsystem **20** detects a user's presence, a screen saver process **12** is controlled accordingly via a control subsystem **19** (i.e., the screen saver is deactivated if a user's presence is detected). Alternately, if a user initiates a user input event (e.g., by moving a mouse, entering a key on a keyboard, etc.), the screen saver is deactivated directly by an operating system **10**. See column 3, lines 39-43.

In any event, **Skarbo teaches detecting the presence of a user and controlling a screen saver in response thereto**. On the contrary, the present application is directed to sensing or monitoring a state of a screen saver or a change in the screen saver's state and determining therefrom whether or not a user is present. More abstractly, Skarbo takes as input a presence detection state and outputs a control signal that regulates the state of a screen saver, while the present application is directed to taking as input a screen saver state and outputting a signal that indicates the state of a user's presence. The teachings of Skarbo and the present application are in this sense opposite of one another. That is to say, the source of input for Skarbo is more akin to the output of the present application and the output of Skarbo is more akin to the source of input for the present application. In short, Skarbo does not teaching that a user's presence is determined based on the detected state of a screen saver. Rather, Skarbo teaches that the state of a screen saver is controlled based upon detecting the presence of a user.

B.   Independent Claims 1 and 7 Define Patentably over Skarbo

Claim 1 calls for detecting signaling within an interface between an operating system and a screen saver, and determining that a user is not present at a workstation when the detected signaling is intended to result in screen saver activation, and determining that the user is present at the workstation when the detected signaling is intended to result in screen saver deactivation. Claim 7 recites a module having means

for performing similar actions. Accordingly, as claimed, user presence determinations are made based upon detecting a screen saver's activation and deactivation. Skarbo fails to expressly teach or fairly suggest the forgoing. Skarbo makes no user presence determination based upon screen saver activation and/or deactivation. Rather, Skarbo discloses controlling a screen saver's activation and/or deactivation based upon the detection of a user's presence. This disclosure simply does not read on the claim language.

Accordingly, claims 1 and 7 define patentably over the prior art, along with claims 2-5 and 8-11 depending therefrom.

C.   Independent Claim 13 Defines Patentably over Skarbo

Claim 13 calls for a "workstation" including "presence detection means for detecting a user's presence at the workstation from the state of the screen saver." Skarbo discloses no such presence detection means. The only presence detection means Skarbo discloses is the presence detection subsystem 20 which detects a user's presence from motion detectors, audio detectors, room temperature detectors, infrared detectors, etc., and an operating system 10 which detects a user's presence from user input events 14. None of the presence detection means disclosed by Skarbo detect a user's presence from or based upon the state of the screen saver. Rather, Skarbo teaches controlling the state of the screen saver based upon presence detection obtained from other means.

Accordingly, claim 13 defines patentably over the prior art, along with claims 14, 16 and 18 depending therefrom.

D.   Rebuttal to the Outstanding Office Action

The Office Action alleges that Skarbo "discloses that the screen saver is activated or deactivated based upon the presence of a person in the video conferencing room." While arguably accurate, this is not what is being claimed. What is claimed is determining if an individual or user is present based upon a state of the screen saver or a change in the screen saver's state.

The Office Action also alleges that Skarbo discloses Applicant's step (a). This, however, is inaccurate. Step (a) calls for detecting signaling within an interface between an operating system and a screen saver, which signaling is intended to activate or

deactivate the screen saver. Skarbo teaches no detection of any such signaling within an interface between the operating system (OS) **10** and the screen saver process **12**.

Skarbo merely discloses that before the screen saver process **12** is launch, the OS **10** sends a message to check with other open windows to be sure that it is okay with them to launch the screen saver. When one of these windows belongs to the video conferencing system **18**, the video conferencing system **18** processes the message and inhibits launching of the screen saver if the video conferencing system **18** detects an active video conferencing session or detects a presence in the room or area of the video conferencing site.

First, the aforementioned message send by the OS **10** cannot be fairly equated with the claimed signaling that is detected, because the message is not intended to activate or deactivate the screen saver as claimed. Rather, the message send by the OS **10** merely checks with other processes to see if it is permissible to activate the screen saver.

Second, a determination of presence is not based upon the aforementioned message sent by the OS **10**. Rather, the presence determination is made based upon whether or not there is an active video conferencing session or whether or not the presence detection subsystem **20** detects a presence. Notably, the presence detection subsystem **20** does **NOT** determine presence based upon the current state of the screen saver.

Moreover, any communication from the video conferencing system **18** to the OS **10** cannot fairly be equated with the signaling that is detected. As claimed, the signaling that is detected is within an interface between the operating system and the screen saver. A communication sent from the video conferencing system **18** to the OS **10** is not the same as a signal in an interface between the OS **10** and the screen saver **12**. That is to say, simply because Skarbo discloses that the video conferencing system **18** informs the OS **10** that it is permitted to activate the screen saver **12**, Skarbo does not teach detecting signaling within an interface between the OS **10** and the screen saver **12**. On the contrary, nowhere does Skarbo teach detecting any communications or signaling within an interface between the OS **10** and the screen saver **12**, nor does Skarbo teach making a presence determination based upon such detections.

The Office Action alleges that Skarbo is "doing the same thing that applicant proposes to do in their VoIP telephone call, that is when the PC detects sound for an

VoIP telephone call, then the screen saver will be deactivated; when no sound is present then the screen saver will be activated." This, however, is not what Applicant is proposing. Moreover, it is a fundamental misinterpretation of Applicant's claims. Applicant is not claiming detecting the sounds of a VoIP telephone call, nor does Applicant claim activating or deactivating a screen saver in response to detected sounds from a VoIP telephone call. The signaling being detected is within an interface between a computer's operating system and a screen saver. The signaling which is being detected is not the sounds of a VoIP telephone call.

As clearly reflected in the claims, Applicant is proposing using the state of the screen saver or changes in the state of the screen saver to determine an individual's presence. Applicant is not claiming how or when the screen saver is activated or deactivated. Rather, Applicant proposes using the state of a screen saver or changes in the state of the screen saver as an indicator, and making a determination about an individual's presence based upon this indicator. Again, Skarbo fails to disclose this. Skarbo merely teaches when and/or how a screen saver may be activated or deactivated. When and/or how a screen saver is activated or deactivated is not what is being claimed in the present claims.

The Office Action alleges that Skarbo discloses that "the screen saver will not be activated if the video conference system is being used." The Office Action then states that "this meets applicant's step '(c)' in claim 1." Again, however, that statement is inaccurate. Step (c) calls for "determining that the user is present at the workstation when the detected signaling is intended to result in screen saver deactivation." Clearly, the Office Action is confusing cause with effect and *vice versa*. As claimed, the cause is detecting signaling intended to result in screen saver deactivation, and the effect is making a determination that a user is present. As Skarbo teaches, the cause is detecting the presence of a user, and the effect is deactivation of the screen saver. Similarly, the Office Action alleges that Skarbo meets step (b) in claim 1. Again, however, the Office Action impermissibly exchanges cause and effect. While Skarbo may well teach activating the screen saver when no presence is detected, this is not what is being claimed. As claimed, the cause is detecting signaling intended to result in screen saver activation, and the effect is making a determination that a user is not present. On the contrary, as Skarbo teaches, the cause is detecting that no user is

present, and the effect is activating the screen saver. Simply put, Skarbo does not teach steps (b) and (c) of claim 1.

II. The rejection based on Hinckley is Erroneous

Hinckley like Skarbo also fails to disclose the claimed invention. Hinckley merely discloses that a screen saver is activated when no user presence is detected and deactivated when a user's presence is detected. Again, the Office Action confuses the cause and effect. Applicant is not claiming the selective activation and deactivation of a screen saver in response to detection of a user's presence. Rather, the claims are · clearly directed to determining a user's presence based upon the state or state change of a screen saver.

A. Independent Claims 1 and 7 Define Patentably over Hinckley

Claim 1 calls for detecting signaling within an interface between an operating system and a screen saver, and determining that a user is not present at a workstation when the detected signaling is intended to result in screen saver activation, and determining that the user is present at the workstation when the detected signaling is intended to result in screen saver deactivation. Claim 7 recites a module having means for performing similar actions. Accordingly, as claimed, user presence determinations are made based upon detecting a screen saver's activation and deactivation. Hinckley fails to expressly teach or fairly suggest the forgoing. Hinckley makes no user presence determination based upon screen saver activation and/or deactivation. Rather, Hinckley discloses controlling a screen saver's activation and/or deactivation based upon the detection of a user's presence. This disclosure simply does not read on the claim language.

Accordingly, claims 1 and 7 define patentably over the prior art, along with claims 2-5 and 8-11 depending therefrom.

B. Independent Claim 13 Defines Patentably over Hinckley

Claim 13 calls for a "workstation" including "presence detection means for detecting a user's presence at the workstation from the state of the screen saver." Hinckley discloses no such presence detection means. The only presence detection means Hinckley discloses detects a user's presence based upon a user's operation of

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particular input devices. None of the presence detection means disclosed by Hinckley detect a user's presence from or based upon the state of the screen saver. Rather, Hinckley teaches controlling the state of the screen saver based upon presence detection obtained from other means.

Accordingly, claim 13 defines patentably over the prior art, along with claims 14, 16 and 18 depending therefrom.

III.   The rejection under 35 U.S.C. §112, 2nd Paragraph is Erroneous

The claims are definite and distinctly claim the subject matter which Applicant regards as the invention. Notably, the allegedly offending phase has been modified. Claims 1 and 7 now recite "detecting signaling across an interface between the operating system and the screen saver, said signaling intended to selectively result in one of activation or deactivation of the screen saver." Nevertheless, the allegations in the Office Action evidence a misunderstanding by the Examiner of the present application. For clarification, the Examiner is directed to FIGURE 2, and page 5, line 9 through page 7, line 13. As disclosed, communications and/or signaling pass across or over an interface between the OS **100** and the SS **110** of the computer **12**, and this signaling is intended to result in the activation or deactivation of the SS **110**. See, e.g., page 6, lines 5-11. The PDM **120** picks-up, observes, monitors and/or otherwise detects the aforementioned signaling. See, e.g., page 6, lines 20-30.

In this manner, the state or changes in the state of the SS **110** are detected. It has been recognized by the Applicant that the state of the SS **110** is indicative of a user's presence (i.e., activation of the SS **110** indicates that a user is not present and deactivation of the SS **110** indicates that a user is present). Accordingly, a presence determination is made based upon the detected state or change in the state of the SS **110**. Suitably, the presence determination is in turn communicated from the PDM **120** to the IP telephony system **130**. Note, use or non-use of the IP telephony system **130** does not dictate activation or deactivation of the SS **110**. Rather, the IP telephony system **130** is informed of a user's presence based upon the PDM **120** detecting a particular state or state change of the SS **110**. More specifically, the aforementioned state or state change is detected by monitoring the signaling within an interface between the OS **100** and the SS **110** of the computer **12**.
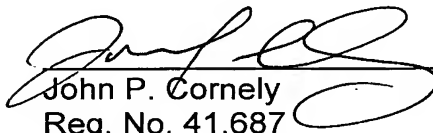
CONCLUSION

For the reasons detailed above, it is respectfully submitted that all the claims remaining in the application are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to telephone the below signed at the listed telephone number.
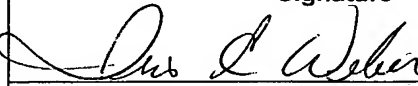
Respectfully submitted;

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

May 23, 2006
Date

John P. Cornely
Reg. No. 41,687
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582

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